

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE FOR THE TWENTIETH
JUDICIAL DISTRICT AT NASHVILLE

STATE OF TENNESSEE,
Petitioner,

v.

BILL HEARD CHEVROLET
CORPORATION-NASHVILLE,
a Tennessee corporation, also known as
BILL HEARD CHEVROLET and BILL
HEARD CHEVROLET-GEO,

Respondent.

PETITION

Paul G. Summers, Attorney General and Reporter for the State of Tennessee, (hereinafter "Attorney General"), files this Petition pursuant to Tenn. Code Ann. § 47-18-107 of the Tennessee Consumer Protection Act of 1977, Tenn. Code Ann. § 47-18-101 *et seq* (hereinafter "the Act"), and would respectfully show the Court as follows:

1. The Attorney General, acting pursuant to the Act, has investigated certain acts and practices of Bill Heard Chevrolet Corporation — Nashville, a Tennessee corporation also known as Bill Heard Chevrolet and Bill Heard Chevrolet — GEO (hereinafter, "Respondent" or "Bill Heard - Nashville"). Upon completion of such investigation, the Attorney General has determined that certain of Respondent's acts and practices, more specifically described in Paragraph 2 of this Petition, constitute unfair and deceptive acts or practices affecting the conduct of trade or commerce in the State of Tennessee in violation of the Act. More specifically, Respondent's conduct constitutes violations of Tenn. Code Ann. §§ 47-18-104(a), (b)(5) and (b)(27) and § 47-18-120.

2. Based upon the investigation of Respondent, the Attorney General alleges the following:

(A) Respondent is a Tennessee corporation. Respondent operates a licensed motor vehicle dealership in Nashville, Tennessee. As a part of the operation of the dealership Respondent engages in solicitations and promotions to encourage consumers to visit Respondent's dealership.

(B) During late 1999, Respondent sent a direct mail solicitation offering members of the Nashville area with Spanish surnames free airline travel and other incentives to induce those consumers to visit Respondent's dealership and purchase a vehicle. Attached as Exhibit A is a copy of the solicitation. That promotion was printed on the front of the promotion in Spanish but disclosures required by the Tennessee prize, gift and award statute were printed in English only. This particular solicitation was mailed to approximately 15,000 consumers.

(C) Respondent's promotion also failed to include some clear and conspicuous disclosures required by the Tennessee prize, gift and award statute such as but not limited to, the verifiable retail value immediately adjacent to the listing of the prize, and the odds of winning each prize in Arabic numerals, immediately adjacent to the listing of the prizes. Respondent also failed to clearly and conspicuously disclose the total costs of all monetary obligations that a consumer must incur before being able to use the airline ticket such as the cost of the hotel rooms that must be purchased.

(D) As a result of the solicitation attached as Exhibit A and associated telemarketing activities conducted by the Respondent, approximately 225 consumers actually visited the dealership. All persons coming to the Respondent's dealership in response to Exhibit A received the airline ticket discount booklet, a Bill Heard cap and coffee mug and \$5.00. None of the persons responding to the offer won any of the other promoted large cash prizes.

(E) Bill Crick employed by the Respondent was responsible for reviewing and monitoring advertisements for Bill Heard and Bill Crick approved the solicitation attached as Exhibit A for distribution to Tennessee consumers.

(F) Respondent's conduct described in Paragraph 2 (A-E) constitutes unfair and deceptive acts or practices.

3. Respondent neither admits nor denies the allegations of Paragraph 2 (A-F).

4. The Attorney General entered into negotiations with Respondent and the parties have agreed to, and the Division has approved, the attached Assurance of Voluntary Compliance.

5. In accordance with the provisions of Tenn. Code Ann. § 47-18-107(c), the execution, delivery and filing of the Assurance does not constitute an admission of prior violation of the Act.

6. The Division, the Attorney General, and the Respondent, the parties who are primarily interested in the matters set forth in Paragraph 2 hereof, have jointly agreed to the Assurance of Voluntary Compliance and join in its filing.

PREMISES CONSIDERED, Petitioner prays

1. That this Petition be filed without cost bond pursuant to the provisions of Tenn. Code Ann. §§ 20-13-101 and 47-18-116.

2. That the Assurance of Voluntary Compliance be approved and filed in accordance with the provisions of the Tennessee Consumer Protection Act.